

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
vs. Plaintiff,) Case No. 23-CR-264-GKF
DANIEL LAWRENCE CHARBA,)
Defendant.)

**UNOPPOSED MOTION FOR 45- TO 60-DAY
CONTINUANCE OF SCHEDULING ORDER**

Allen M. Smallwood, counsel for the above-named defendant, Daniel Lawrence Charba, with agreement of counsel for the Government, Nathan E. Michel, Assistant United States Attorney, seeks a 45- to 60-day continuance of this Court's scheduling order (Dkt. 9) in this case for the following reasons:

1. This defendant is charged in a two-count indictment with Unlawfully Making a Destructive Device (COUNT ONE) in violation of 26 U.S.C. §§ 5861(f), 5871, and 5822; and, Possession of an Unregistered Destructive Device in violation of 26 U.S.C. §§ 5861(d), and 5871, with a forfeiture allegation per 26 U.S.C. § 5872, and 28 U.S.C. § 2461 (Unlicensed Firearms Forfeiture) (COUNT TWO). The defendant is free on pretrial release, with a pretrial conference/motion hearing scheduled for October 3, 2023, at 9:30 a.m. Jury trial is currently scheduled for October 23, 2023, at 9:30 a.m.

2. This defendant is also charged in State of Oklahoma v. Daniel Charba, Tulsa County Case No. CF-2023-1353, with thirteen counts of Unlawfully Manufacture Explosives (Counts 1 – 13 – Felonies), in violation of 21 O.S. § 1767.1, based upon the identical facts and circumstances as alleged in this current federal indictment.

3. The evidence in both the cases reference in Paragraph Nos. 1 and 2 above are identical and the witnesses will be identical.

4. A preliminary hearing is scheduled in the State felony matter for Friday, September 8, 2023. Counsel has filed a motion to suppress the defendant's statements based upon his belief that they were obtained in violation of this defendant's constitutional rights under the Fourth and Fifth Amendments, and Article 2, Section 21, of the Oklahoma Constitution.

5. Counsel anticipates filing the identical motion in this current federal case depending upon the outcome in the State case and further negotiations with the United States Attorney's Office.

6. Should this defendant have to enter into a plea agreement prior to resolution of the State case, it will prevent him from exercising his rights to litigate those issues in the State case in order to avoid the application of any felony provisions in that State case.

7. A continuance of this Court's scheduling order (Dkt. 9) in this case will allow the defendant sufficient time to fully exercise his pretrial rights in the State case and be in a position to, hopefully, resolve this case without trial.

8. The Government in this case filed its indictment knowing the identical charges were pending in State court and, while that is their right, this Court has an obligation to guard this defendant's constitutional rights in this case particularly as they are intertwined with his constitutional rights in the State case.

9. The defendant will be prepared to sign a speedy trial waiver at the court's direction.

10. Counsel is authorized to state that Nathan E. Michel, Assistant United States Attorney, has no objection to this Motion.

WHEREFORE, counsel seeks an order of this Court continuing the scheduling order (Dkt. 9) in this case for 45 to 60 days as requested above.

s/ Allen M. Smallwood
ALLEN M. SMALLWOOD OBA #8308
Counsel for Defendant
DANIEL LAWRENCE CHARBA
1310 South Denver Avenue
Tulsa, Oklahoma 74119-3041
(918) 582-1993 (918) 582-1991 Fax

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2023, a true and correct copy of the above and foregoing was electronically transmitted to the Clerk of Court using the ECF System for filing and transmittal of a notice of electronic filing to the following ECF registrants:

Nathan E. Michel
nathan.michel@usdoj.gov

Reagan Vincent Reininger
reagan.reininger@usdoj.gov

s/ Allen M. Smallwood
ALLEN M. SMALLWOOD